



Why a Leading Member SMSF

"The mission of a Leading Member SMSF is to look after and provide for generations of the bloodline of the originating Leading Member of the family SMSF. It is the highest calling and turns an SMSF from a simple investment vehicle into a multi-dimensional environment to protect and grow the superannuation wealth and benefits of members." Grant Abbott, author of the Guru's Guide to SMSFs

1. The Royal Solution

We have been through the various types of SMSFs, including a DIY fund, a common or average SMSF, a Family SMSF and now, above and beyond all of them is the Leading Member SMSF. Simple, secure, effective and a way of putting a moat around family wealth and control of family investments. It ensures, through the control of various family structures and wealth by a succession of Leading Members that bloodline or lineage is protected and, in some cases, are the only parties to any distribution of income or benefits from these structures.

LightYear Docs is the only document and strategy provider that offers such structures including Family Trusts, Leading Member SMSFs and also Lineage Wills, the time has come for many Australians to create and build their Leading Member castle.

And the inspiration?

We have to look no further than the current British Crown and its descendant bloodline.



Starting with the Leading Member of the Crown, Queen Elizabeth II, the lineage passes to the next in line, in this instance Prince Charles if he remains alive at the time of the Queen's death. Failing that, it will pass to Elizabeth's grandson, Prince William – a secure lineage if there ever was one. And unchallengeable. You certainly wouldn't hear Prince Andrew complain or challenge the passing of the royal power to Prince William if Charles was not alive or able to be a successor to the Queen. And, who remembers the other Prince

– Prince Edward? He is still bloodline but not a leading member of the Royal Family.

And where does the latest addition Meghan Markle fit? In bloodline or lineage terms, she is nowhere but her child Archie will be as he is bloodline.

And, so it is with a Leading Member SMSF and of course a bloodline or lineage Will. More than a Family SMSF, a safe and secure environment for a bloodline generation after generation. And with six members to be allowed into a SMSF, the Leading Member SMSF is a great tool.

Let's start to look at what makes up a Leading Member SMSF.

2. Who and what is the Leading Member and why?

An SMSF under section 17A of the SIS Act 93 consists of 4 members, all of whom must be directors of a corporate trustee. While we are here, a Leading Member SMSF, like the Royal Family lasts for generations which means we need a Trustee that stands the test of time, hence a corporate trustee. But not any corporate trustee, a special purpose Leading Member SMSF Corporate Trustee ("LMSCT"). The foundation of this special, special purpose SMSF Corporate Trustee is that the Leading Member (see below) owns all the shares and thus ultimately controls the SMSF. It is similar to the appointor of a Discretionary Trust or for those using the LightYear Docs Discretionary Trust, the Leading Appointor. Importantly when the Leading Membership transfers because of the death or mental incapacity of the Leading Member, the outgoing Leading Member's shares are automatically cancelled and new shares are issued to the incoming Leading Member.

So, who is the Leading Member?

This is the person who controls the Fund. They have power to appoint and remove members, ensure any death or other benefits only go to the Leading Member's bloodline, can veto any Board decision of the corporate trustee if it runs counter to protecting lineage.

Let's look at the Lightyear Docs Leading Member SMSF Deed – www.lightyeardocs.com.au to delve into this key feature of a Leading Member SMSF¹.

"The Leading Member is the initial person who is hereby provided with the power to appoint and remove a Member or Trustee and is appointed as the Leading Member of the Fund. When the Leading Member no longer has legal or mental capacity or dies, the next Leading Member is to be the that person previously nominated in writing by the Leading Member as the successor Leading Member and bloodline of that Leading Member. If no such nomination, the eldest bloodline child of the Leading Member who is a Member of the Fund is to become Leading Member and if none, the Member the Trustee so appoints. The process of Leading Member succession is to continue on indefinitely."

¹ Can you imagine what the British Royalty would be like without a Leading Member. Every rag tag, genetically-tied member of the Royalty would make a claim. Warring factions, and with all that money, power, property and loot at stake, it would take centuries for the courts to rule on any claim. But then again, a Court does not have power over the throne so bear arms it would be.

Simple and sweet and a process that can be achieved in a similar vein in a Family Trust with the Appointor passing to Successor Appointors who are also the same lineage as the Appointor of the Trust.

Like the Appointor, the Leading Member of the Fund controls the goings-on in the Fund. Of course, the other Directors have a vote on the Board but at the end of the day, the Leading Member has the power to appoint and remove members and the Trustee. And as noted above in any Board meeting the Leading Member has a power of veto.

Warning: There is no member application process for a Leading Member SMSF. It is a process of appointment of a lineage member to the Fund. Of course, they need to consent to their being a member and importantly, agree to abide by the Governing Rules of the Fund and the wishes and desires of the Leading Member. It is their choice and more importantly, their responsibility to protect the castle. If the proposed member is not up to it, then they should not join. Simple! And any member may also be terminated from the Fund, for example, where they separate from their spouse and endanger the Family SMSF wealth. The Leading Member may terminate the Member and bring them back in post separation. There is a long line of precedent for termination of Members in employer super funds where a member is no longer employed by the contributing employer.

3. But Section 17A requires all Members to be Directors?

Section 17A indeed requires all Members to be Directors, provided they have legal capacity. But like any company not all Directors have to have an equal vote. On some Boards, a Director may represent a major shareholder and have sway over key decisions of the company and the Board. In other circumstances, each Director may have an equal vote with a Chairman holding a casting vote. Yet in others, where a company is run across multiple jurisdictions, a Director from that jurisdiction may hold the casting or only vote for matters relating to that jurisdiction.

Importantly the Constitution of a LightYear Docs LMSCT provides:

- a) The Leading Member with the final vote or veto on who can be appointed as a member of the Fund;
- b) The Leading Member has the final vote or veto on who can be removed as a member of the Fund. This is vital where a bloodline member becomes bankrupt or divorced;
- c) A member of the Fund seeks to run their own separate investment strategy in their Fund and desires to acquire a residential property under a commercial LRBA. The member as Director can be provided with the power to make decisions, such as repairs and renovations to the property provided such actions do not breach the Superannuation Laws. Although, at all times, the Leading Member has the power to veto;
- d) On the death of a member of the Fund, the member has put in place a set of binding directions (a SMSF Will) that has been signed and executed by the Member and the Leading Member of the Fund. The SMSF Will provides for the Member's executor to be appointed as a Director of the BSCT under the condition that only that Director has the power to deal with the distribution of death benefits under the deceased Member's SMSF Will.

- e) A Member goes overseas and provides an Enduring Power of Attorney to the Leading Member, the Leading Member takes full control of the investment strategy and the making of investments for that Member while they remain overseas.

There are so many more instances where power and looking after the specific needs of Members, the Fund, investments, insurances and the like, where the simple one vote per Director does not fit within a Leading Member SMSF. Remember the mission of a Leading Member SMSF is to look after and provide for generations of the bloodline of the originating Leading Member of the family SMSF.

Unlike other SMSFs the overriding theme is “Safe, Certain and Secure”.

4. Leading Member SMSFs and SMSF Advising



“If you are not doing bloodline planning for your client, you are not thinking beyond the spouse. At so many of my seminars I ask the question – is it important that your money and assets stay within your bloodline? And you know what? 99% of the attendees put their hand up and the 1% who don’t – don’t have bloodline or don’t understand the question. Then I look at their SMSF and wills and bloodline is nowhere to be seen. Whose fault is that? Why is this happening in million and multi-million-dollar SMSFs? Something is going seriously wrong in

SMSF adviser land.” Grant Abbott, author of the Guru’s Guide to SMSFs

The Financial Adviser Standards and Ethics Authority (“FASEA”) has laid down competency standards that an adviser must meet in order to provide advice on an SMSF. These standards were drafted in 2004 and cover the following core competencies:

- FNSASICU503 Provide advice in Superannuation
- FNSSMS601 Provide advice in self-managed superannuation funds
- FNSIAD502 Provide appropriate and timely information and advice to clients
- FNSSMS603 Apply legislative and operational requirements to advising in self-managed superannuation funds.

The competency standards require an existing or new adviser to demonstrate the skills and abilities to advise a prospective SMSF Trustee and member or an existing SMSF Trustee and member on basic strategies for the Fund. With 90% of SMSFs built for two members only and the Fund to be wound up with the last surviving member, the advising time line is terminally short and lacks substance and finesse. It is no wonder that many SMSF Trustees do not see any real strategic value in their SMSFs apart from being able to control their investments.

Now controlling a bloodline – that is a whole new ball game altogether!

In contrast, Leading Member SMSF planning and advising takes into account a much wider set of standards and requires more specialist competencies. Not only must the Leading Member SMSF adviser be able to provide advice on SMSFs but also keep in mind the mission to protect and grow the family's superannuation wealth for generations to come. It requires strategic and thoughtful planning to cater for future generations.

It is not for all but for those that succeed, the mantle of "Trusted Adviser" is theirs.